

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: LAMONI MUNICIPAL UTILITIES	DOCKET NO. WRU-03-58-608
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**ORDER DENYING REQUEST FOR WAIVER
AND GRANTING EXTENSION OF TIME**

(Issued October 6, 2003)

On September 8, 2003, Lamoni Municipal Utilities (Lamoni) filed with the Utilities Board (Board) a request for waiver of the requirements of 199 IAC 15.17. If granted, the waiver would exempt Lamoni from offering a program that allows customers to contribute voluntarily to the development of alternate energy. Lamoni also asked that it be granted a waiver of the customer notification requirements contained in the rule. Lamoni is a non-rate-regulated municipal utility providing retail electric service.

Before offering arguments in support of its waiver request, Lamoni argued that the alternate energy purchase program rules should not apply to it. Lamoni said that non-rate regulated utilities should not be required to offer voluntary alternate energy purchase programs, but should be allowed to mandate participation by their customers in alternate energy programs at rates determined by Lamoni's governing body. In other words, the governing body of non-rate-regulated utilities would be allowed to mandate and set contribution rates by its customers. However, this

interpretation of Iowa Code § 476.47(2)"b" was rejected by the majority of the Board, with the Board determining that the use of the term "offer" in section 476.47(2)"b" suggests that customers of a utility, whether regulated or non-rate-regulated, "are to have a choice whether to participate in the program and that the choice is to be made by customers individually, not collectively through their utilities' governing body." In re: Alternate Energy Purchase Programs, "Order Adopting Rules," Docket No. RMU-03-8 (8/29/03), p. 3. The Board went on to say that non-rate-regulated utilities were required to offer programs with voluntary contributions or seek a waiver of the rules.

In support of its waiver request, Lamoni said that typical participation in voluntary programs of this nature is from 1 to 5 percent and that program participants in small municipal systems with 1,100 customers, like Lamoni, would have the value of their contributions nullified because of the administrative and notification-mailing expenses, leaving little or nothing to promote the use of alternative energy in Iowa.

In adopting the alternate energy purchase program rules, the Board was cognizant of the special needs and limitations of small non-rate-regulated utilities in its rules. For example, the Board noted at page 3 of its order adopting rules that it would allow "small utilities to adopt programs like a customer contribution fund with funds donated to Iowa organizations involved in alternate energy development such

as the Iowa Energy Center.” Lamoni has not established that the administrative cost of creating and administering such a fund would be unduly burdensome.

In addition, the Board notes that 199 IAC 15.17(2) does not require mailing or any other specific distribution method for the customer notice. Other methods could include notification through local newspapers. Subrule 15.17(6) requires non-rate-regulated utility tariff filings to include a sample of the customer notification and a description of its method of distribution. However, as with the alternate energy tariffs in general, the notification and distribution method are filed with the Board for informational purposes only, not for Board approval.

While Iowa Code § 476.47(6) allows the Board to grant waivers of the alternate energy purchase program requirements to non-rate-regulated utilities “for good cause,” Lamoni has not established good cause for a waiver. Scant evidence has been shown regarding the administrative costs and the request appears to have been based, at least in part, on a misunderstanding of the notice requirements. It also does not appear from the filing that Lamoni has explored alternatives, such as conducting a joint program with other small utilities or having customers contribute to a wholesale supplier’s program, especially if the supplier is MidAmerican Energy Company or Interstate Power and Light Company.

The Board does recognize, though, that the time limits contained in the rules may be problematic. Therefore, the Board will grant a partial waiver of

199 IAC 15.17, postponing for three months, or until April 1, 2004, Lamoni's obligations to offer an alternate energy purchase program and file a program tariff.

IT IS THEREFORE ORDERED:

1. The request for waiver filed by Lamoni Municipal Utilities on September 8, 2003, is denied.
2. The time for Lamoni to offer an alternate energy purchase program and file a program tariff is extended from January 1, 2004, to April 1, 2004.

UTILITIES BOARD

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 6th day of October, 2003.